

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **SEN. MIKE COONEY**, on February 4, 2005 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Mike Cooney (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Rick Laible (R)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Jon Ellingson (D)

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Claudia Johnson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	Confirmation Hearings: Bruce Measure , Northwest Power & Conservation Council; Rhonda Whiting , Northwest Power & Conservation Council
Executive Action:	None.

SEN. COONEY announced a departure from the previous hearing format: as both candidates were nominees to the Council, each should make their presentations; then, questions by the Committee would be directed to both nominees.

Bruce Measure - Member, Northwest Power & Conservation Council

Mr. Measure practised law in the firm of Measure & Wilson, P.C., in Kalispell. Prior to that, he served as a forester for Plum Creek Timber Co., and spent ten years as a partner in the law offices of his father, Ambrose G. Measure. He attended Flathead High School, and received his associate of arts degree in forestry at the Flathead Valley Community College, his bachelor's degree in political science at the University of Montana, and his Juris Doctorate at the University of Montana School of Law. He served in the Montana House of Representatives in 1991, and was president of the Flathead Electric Co-op Board of Trustees. He has one son, Buck.

Mr. Measure submitted his resume, giving a brief overview of his career, and read from his presentation. He also provided a summary of energy issues facing the Northwest.

[EXHIBIT\(sts28a01\)](#)

[EXHIBIT\(sts28a02\)](#)

[EXHIBIT\(sts28a03\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 9.6}

Rhonda Whiting, Member - Northwest Power & Conservation Council

Ms. Whiting is a member of the Confederated Salish and Kootenai Tribes, and was vice president of communications for S&K Technologies Inc. Prior to that, she was appointed by President Clinton to work as the national outreach coordinator for Native American Economic Development at the Small Business Administration. Additionally, she owned her own communications consulting business, and worked in the Confederated Salish and Kootenai Tribal Legal Department. She has also worked in education as the assistant director and instructor for Native American Studies at the University of Montana. Her political experience includes Political Director of Native American Outreach for the Democratic National Committee, and various positions within the Montana and local Democratic Parties. Whiting attended Hellgate High School, and has a master's degree in education, and a Juris Doctorate, both from the University of Montana. She has three daughters and five grandchildren.

Ms. Whiting advised she was appointed to be Chair of the Fish and Wildlife Committee within the Council, and read from her presentation; she also submitted a copy of her resume.

EXHIBIT(sts28a04)

EXHIBIT(sts28a05)

{Tape: 1; Side: A; Approx. Time Counter: 18.9}

SEN. MIKE COONEY, SD 40, HELENA, asked her to explain how her background had prepared her to be a member of the Council. **Ms. Whiting** stated she was uniquely qualified as she was the first Native American ever to have been appointed to the Council, and there was continued work to be done on the tribal level. She felt her work on the national level prepared her to work with members of the participating four states and the Tribes.

SEN. COONEY posed the same question to **Mr. Measure**, who replied that he brought valuable knowledge to the position as his background was in energy issues. He added, as a member of its Board, he had overseen a reduction in rates in the Flathead Electric Cooperative; he also understood the connection between public and investor-owned power systems, as well as transmission providers, and had extensive knowledge with regard to the Bonneville Power Administration (BPA). Lastly, he contended his legal background would serve him in making sure Montana's interests were well represented.

{Tape: 1; Side: A; Approx. Time Counter: 22.7}

SEN. COONEY asked about his goals for the Council. **Mr. Measure** replied his main goal was to make sure that Montana's two major reservoirs, Hungry Horse Reservoir and Lake Kookanoosa, which are the second- and third-largest in the Columbia Hydro-System, remained at optimum levels in order to protect fish as well as the interests of recreationists. He advised that amendments ensuring high water levels were added to the Power Plan by Ms. Whiting and former members, and had been approved and ratified by the Council. **Mr. Measure** added that BPA, the Army Corps of Engineers, and the Bureau of Reclamation had yet to implement these measures.

Ms. Whiting answered the same question by stressing the importance of devising strategies to maintain recreational use of Montana's lakes; she also wanted to ensure stability of the funds allocated through BPA for recovery and mitigation, and to make sure Montana's voice was heard.

{Tape: 1; Side: A; Approx. Time Counter: 26.5}

SEN. JIM SHOCKLEY, SD 45, VICTOR, asked Mr. Measure how involved he was with the Flathead Electric Cooperative (FEC), when they got into trouble. **Mr. Measure** explained his involvement at the time was limited to being their counsel as the cooperative had been a client of his father's law firm since its inception in 1937. The troubles stemmed from their purchase of Pacific Power territory, which took the membership from 8,000 to 50,000; the impact was two-fold as they had not examined any of the infrastructure, such as transmission lines, and the first negative effects of deregulation were being felt in the region. All of this affected prices for public utilities; in addition, the manager of FEC had entered into a contract with PacifiCorps at market rates.

{Tape: 1; Side: B}

This caused a great deal of dissension, and took the FEC to the brink of bankruptcy. He added that he was not on the FEC Board at the time.

{Tape: 1; Side: B; Approx. Time Counter: 1.2}

SEN. STEVE GALLUS, SD 37, BUTTE, was concerned that BPA continued to sell their power on a cost-based rather than market-based system, and asked Mr. Measure about his preference, and how he would use his position on the Council to maintain the system for the benefit of the Pacific Northwest. **Mr. Measure** explained that BPA was a federally chartered corporation whose assets were secured to the Treasury by loans, and it was a model for the nation and the world, in that it provided the most reliable and lowest cost power system; as such, it had greatly contributed to economic development in the Northwest. He stated BPA's make-up made it less likely that it would be split up by private interests, and added he would work towards keeping public power in the area where it was produced.

SEN. GALLUS advised he was one of the sixteen voting members on the Legislative Council on the Columbia River Governance, and asked whether he was aware of the Council. When **Mr. Measure** replied he was not, **SEN. GALLUS** requested that the two entities should confer on some of the issues. **Mr. Measure** asked to be put on their mailing list as it was his intention to visit with his constituency.

{Tape: 1; Side: B; Approx. Time Counter: 7}

SEN. RICK LAIBLE, SD 44, VICTOR, surmised there appeared to be a balance between the needs of Montana, the Northwest, and those of wildlife and fisheries; he asked how Ms. Whiting proposed to

maintain this balance, and whether she saw any conflicts with representing Montana's interests. **Ms. Whiting** agreed there would be times when the Council's perspective would differ from Montana's, and stated she would look out for and further Montana's interests.

Mr. Measure added that the Council was also charged with looking out for the region's interests; he contended the councils would be most effective in convincing BPA and other agencies to follow their admonitions when they were unanimous; to that end, he advocated finding as much common ground as possible.

SEN. LAIBLE asked what he planned to do about the additional power generation in Montana, in light of the transmission issue.

Mr. Measure agreed that the State had a significant problem with constrained transmission, stating this posed two questions: 1) establishing mini markets in regions with resources to produce power; 2) becoming a net power exporter. He stated the issue was how to produce enough energy for the State to drive economic development without becoming susceptible to the market fluctuations of surrounding states. He added he was not sure how to go about it, but pledged to find an answer.

SEN. LAIBLE asked whether he believed the State should become a net exporter. **Mr. Measure** replied he would welcome additional economic development, and stressed, should the State export carbon-based energy, Montana's coal should be used in the production to assist the coal mining industry. He submitted the stepped-up production would lead to low-cost energy for Montanans which in turn would result in the development of other "economic engines." Lastly, he felt the State should profit from transmission, and not only by way of the tax it charged.

{Tape: 1; Side: B; Approx. Time Counter: 14.6}

SEN. JOE BALLYEAT, SD 34, BOZEMAN, referred to his criticism of Governor Schweitzer for not fulfilling his pledge to work with both political parties; seeing that both nominees had a history of being active in Democratic Party politics, he asked for reassurance that they were able to work with people from both sides of the aisle while serving as Council members.

Ms. Whiting stated, in her capacity as Vice President of S & K Technologies, she developed excellent working relations with U.S. Senator Burns' and Congressman Rehberg's offices as well as with U.S. Senator Baucus; her priority had been economic development for the Indian Nations, and it was paramount to establish a rapport with both sides of the aisle. She felt the same applied with regard to her position on the Council, where she would represent Montana's interests.

SEN. BALLYEAT asked whether she planned to serve the full four-year term, which **Ms. Whiting** confirmed.

{Tape: 1; Side: B; Approx. Time Counter: 17.5}

CHAIR SQUIRES joined the hearing.

Mr. Measure stated one could not live in Flathead County and not be able to get along with the Republican Party; he also referred to his good working relationship with **SEN. BALLYEAT's** brother, Missoula attorney **REP. JOHN BALLYEAT**. As to the second question, he advised of his intention to serve the full term as well, adding he had terminated ties with his law firm in Kalispell.

{Tape: 1; Side: B; Approx. Time Counter: 18.6}

SEN. BALLYEAT referred to Ms. Whiting's written testimony with regard to funding for fish and wildlife, and asked whether she was primarily focused on fish and wildlife or whether she would advocate for sportsmen's interests as well. **Ms. Whiting** advised she was an avid fly fisher and had started to hunt as well; while she portrayed herself as an advocate for the conservation of wildlife and natural resources, she maintained she was able to look at the issues from a sportsmen's perspective as well.

{Tape: 1; Side: B; Approx. Time Counter: 21.4}

SEN. SHOCKLEY asked Mr. Measure whether he was familiar with the Governor's plans to build a power line, connecting the State with the Western Grid system. **Mr. Measure** replied he was vaguely familiar with the project. **SEN. SHOCKLEY** wondered whether such a connection would result in an increase or a decrease in Montana's power rates. **Mr. Measure** explained there were two conflicting theories; one held, if more power was produced and stayed in the region (which included California), it might tend to stabilize energy rates in other parts of the region. He opined, though, if Montana could divert power to markets which commanded higher prices, there could be a danger that too much would be exported, resulting in higher prices in the State.

SEN. VICKI COCCHIARELLA, SD 47, MISSOULA, contended that the Legislature never had a relationship with the Council, and asked whether Ms. Whiting thought this was important, and secondly, how she would go about changing it.

{Tape: 2; Side: A}

Ms. Whiting replied that it was, and she would welcome input from both the House and the Senate on the issues. She added she would send out information to legislators through the summer in order to gauge their interests.

Mr. Measure concurred, adding he would do his best under the current time constraints. He advised that the Council would have to reach out to a number of factions, and, at the same time, make sure that political decisions on the regional level did not negatively impact Montana.

{Tape: 2; Side: A; Approx. Time Counter: 4.4}

SEN. JEFF ESSMANN, SD 28, BILLINGS, was not familiar with the Council, and asked whether its function was regulatory or advisory, and whether they had the power of the checkbook. **Mr. Measure** replied they did not have the power of the checkbook. They were required, however, to make decisions with regard to the Power Plan, setting forth what BPA should do within the five-year planning period. Before the plan could be concluded, the Fish and Wildlife Committee had to devise a plan for proper and adequate treatment of the fish and wildlife within BPA's plan. Funding for fish and wildlife mitigation and other projects came from BPA's ratepayers. BPA was required to give consideration to any plans or decisions made by the Council; this did not preclude them from not participating in a project, but it made it more difficult as they could not arbitrarily neglect the Council's recommendations. **Mr. Measure** went on to say this requirement was not in place with other agencies, but in one of the amendments mentioned earlier, the Army Corps of Engineers was ordered to give deference to the Council's decisions.

{Tape: 2; Side: A; Approx. Time Counter: 8}

SEN. DAVE LEWIS, SD 42, HELENA, referred to discussions about removing some of the dams on the Columbia River to promote the salmon run, and asked about Ms. Whiting's stand on this issue, and the implications for Montana. **Ms. Whiting** advised the Oregon plan would affect Hungry Horse Dam and the area's wildlife. She stated discussions had taken place with the Governor and were planned for the National Oceanic Administration as the Council wanted to take a strong stand in defending Montana's interests.

Mr. Measure advised at issue was the removal of four BPA dams on the lower Snake River, adding Oregon charged there was a need for more water for the salmon run. He contended the dams had very little hydro-power and were installed primarily for navigation purposes. The Idaho Power dams would be the ones to actually

impact salmon runs, and would have to be mitigated or removed to make any difference.

{Tape: 2; Side: A; Approx. Time Counter: 12.4}

SEN. JOSEPH TROPILA, SD 13, GREAT FALLS, commended both Ms. Whiting and Mr. Measure, and added that Governor Schweitzer had made two valuable appointments.

SEN. COCCHIARELLA asked whether BPA held all the power with regard to these issues. **Ms. Whiting** replied that due to its size and years in existence, BPA did have a lot of power; she stressed the importance of the four agencies working together in order to accomplish their goals. She felt the Montana Council had the closest relationship with BPA.

SEN. COCCHIARELLA wondered whether the Council had enough leverage to override that agency's decisions. **Mr. Measure** replied that any action would be done in a subtle manner, adding that it was important for all four agencies to act in unison as it would be difficult for BPA to overcome both the science and policy bodies' contentions in order to pursue a different direction. He advised the Council had numerous constituency groups who appreciate the positions advanced by the Council as the policy-making body; **Mr. Measure** added those groups would stand behind the Council if BPA did not respond.

Ms. Whiting concurred.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. CAROLYN SQUIRES, Chairman

CLAUDIA JOHNSON, Secretary

MARION MOOD, Transcriber

CS/cj/mm

Additional Exhibits:

EXHIBIT ([sts28aad0.PDF](#))